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it by all parties, finds and concludes as follows:

FINDINGS OF FACT

1. Due, proper and sufficient notice was given of this matter, the hearing hereon, and of the time and place of said hearing. All parties were afforded opportunity to present evidence, oral and documentary.

2. The taxpayer is the owner of the property which is the subject of this appeal and which is described as follows:

Lots 16 & 17, Blk 11 Plains Original Townsite,  
Sanders County, Montana,  
and the improvements thereon.

3. For the 1997 tax year, the DOR appraised the subject property at a value of \$12,555 for the land and \$68,145 for the improvements.

4. The taxpayer appealed to the Sanders County Tax Appeal Board requesting a reduction in value to \$10,000 for the land, and \$20,000 for the improvements.

5. The County Board denied the appeal.

6. The taxpayer then appealed that decision to this Board. The value requested by the taxpayer for the improvements was modified at the hearing before this Board to \$53,145, a \$15,000 reduction from the DOR value. He stated that he was not separating the value of the land and improvements, he is seeking an overall value reduction of

\$15,000 from the DOR total appraised value.

7. The subject property was also the subject of an appeal by Buffalo Bill Road, Inc. It was determined at the hearing before this Board that 1804 Inc. is the party in interest and the duplicate appeal filed by Buffalo Bill Road, Inc. was withdrawn by Mr. Cox.

#### TAXPAYER'S CONTENTIONS

The subject property is a single family residence that was built in 1919. It was moved two or three miles from the outskirts of Plains, into the town of Plains. Mr. Cox argued that the value of the property is reduced by \$10,000 because of the fact that it has been moved to its present location. This estimate of value diminution was arrived at by Mr. Cox talking to "real estate agents." According to Mr. Cox the estimate was not quantified by any particular appraisal measure, only an opinion of what disclosure of the move would mean to a potential buyer.

Mr. Cox testified that the condition of the house as it existed on January 1, 1997 is poor. The property is very old, the walls and ceilings are cracked, some of the insulation is "old magazines", the windows are single pane making it difficult to heat in the winter. The roof is an old metal roof with tar strips and from an appearance perspective Mr. Cox believes that it is very unattractive.

The property is currently utilized as a rental by Mr. Cox. The rent is \$450 per month plus utilities with the landlord responsible for paying the taxes and maintenance costs. Mr. Cox described \$450 per month rental as "expensive rent" for Plains.

Mr. Cox stated that the house was purchased approximately six years ago. Ownership of the property has been passed through several different corporations and a bank since its purchase. The moving of the house occurred at the direction of Mr. Cox at the time of the original purchase. It cost \$8,500 to move the house at that time and \$10,000 to construct a basement and to attach the house to the new basement. The house is currently located in a residential area of Plains. The lot that the house now sits on was owned by 1804, Inc., prior to moving the house onto it.

#### DOR'S CONTENTIONS

Mr. Thompson provided the Board with the 1997 assessment for this property (Ex A) along with the property record cards.(Ex B)

Mr. Thompson testified explained how the land value was determined. The subject lot is 84' X 100' and is typical of the lots in Plains. The DOR has nineteen sales within the described neighborhood from which to build the computer model

used to determine the land value. Of those nineteen sales, five were vacant land. The sizes of the vacant lots ranged from 5,100 square feet to 14,000 square feet. The 5,100 square foot lot sold in May of 1995 for \$8,000. The 14,000 square foot lot sold in December of 1995 for \$20,000. Generally the rectangular shaped lots with frontage are valued using \$200 per front foot for the first 75 front feet, and adjusted for size beyond that. Mr. Thompson did not submit the Computer Assisted Land Pricing (CALP) because of concerns he had over the confidentiality of the DOR information.

Mr. Thompson stated that, when the house was originally moved into Plains, the DOR was refused entry into the property for appraisal purposes and an appraiser has not been allowed entry since. It is his opinion that the interior cracking could now be repaired and that the overall value of the property is not diminished by the cracking. The house is quality graded a 4 (below average), and the Condition, Desirability, and Utility (CDU) is rated as average. Mr. Thompson testified that the methodology of applying the CDU has changed from the previous appraisal cycle to the current appraisal cycle, and "average pretty much drives our system."

Mr. Thompson explained that the formula used to determine the overall CDU is still there but "in practicality its not used a great deal. It is just a tool to gauge you if you need some

assistance to get you where you want to be." The effective year of the house which drives the depreciation is considered as 1970.

Mr. Thompson presented the cost comparable sales sheet for the subject.(Ex. D) He stated that there is very little difference between the cost based value and the value based on the comparable sales selected to arrive at a value based on the market. He determined that the market based value is the fair market value for the property. He did not make specific adjustments for the items raised by Mr. Cox. There has not been a reduction in value because of the moving of the house. Mr. Thompson stated that the moving of a house does not automatically diminish the value. It is, rather, how the property is treated after the move and whether the property was structurally damaged that would impact the value.

#### BOARD'S DISCUSSION

The taxpayer based his requested valuation mainly on the impact of the move of the subject house, and the unsubstantiated opinion that disclosure of that fact would automatically cause a \$10,000 reduction in a potential market value. He presented no evidence of any kind that would support such a reduction. Certainly there would not be a diminution of the value of the lot and the taxpayer presented no evidence that would indicate the DOR land value in this appeal is in

error.

The taxpayer's testimony concerning the physical condition of the subject house does lead the Board to look at the determination of the CDU and the amount of depreciation that is afforded the property. The documents submitted by the DOR indicate that the CDU determination recorded on the property record card, exhibit B, page 2 is "good", and on the back of exhibit B, page 1, the CDU is printed as "average". The CDU that was utilized in the market modeling process (Ex. D) indicates an "average" CDU was actually applied.

The fact that the DOR has been denied entry into the property for purposes of their appraisal makes it extremely difficult for its appraiser to adjust for the types of physical characteristics that the taxpayer complained of at the hearing before this Board. The testimony of Mr. Thompson that all homes would be considered as "average" unless there is something that would drastically move the property higher or lower away from that determination is a further indication that there would not be an adjustment without such access.

The description of the physical characteristics as presented by the taxpayer are not those of a house that could be considered average as far as the condition portion of the three part formula in place for the CDU determination. A reduction in the CDU is warranted to allow for a recognition of

the physical depreciation that is present.

It is, therefore, the opinion of this Board that the taxpayer's appeal as to the land value be denied. The appeal as to the value of the improvements shall be granted in part and denied in part. The subject improvements value shall be as determined by the DOR after recalculation of the value following the application of a "fair" CDU factor.

#### CONCLUSIONS OF LAW

**1. 15-8-111. Assessment - market value standard - exceptions.** (1) All taxable property must be assessed at 100% of its market value except as otherwise provided. (2) (a) Market value is the value at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of relevant facts. (b) If the department uses construction cost as one approximation of market value, the department shall fully consider reduction in value caused by depreciation, whether through physical depreciation, functional obsolescence, or economic obsolescence.

#### ORDER

IT IS THEREFORE ORDERED by the State Tax Appeal Board of the State of Montana that the subject property shall be entered on the tax rolls of Sanders County by the assessor of



that county at the 1997 tax year value of \$12,555 for the land and the value of the improvements as determined by the Department of Revenue in accordance with this Order.

Dated this 20th of November, 1998.

BY ORDER OF THE  
STATE TAX APPEAL BOARD

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PATRICK E. McKELVEY, Chairman

( S E A L )

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GREGORY A. THORNQUIST, Member

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LINDA L. VAUGHEY, Member

NOTICE: You are entitled to judicial review of this Order in accordance with Section 15-2-303(2), MCA. Judicial review may be obtained by filing a petition in district court within 60 days following the service of this Order.